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INTERNATIONAL COOPERATION IN COMBATING TRANSNATIONAL CRIME

IMPLEMENTATION OF THE NAPLES POLITICAL DECLARATION AND GLOBAL ACTION PLAN AGAINST ORGANIZED TRANSNATIONAL CRIME: QUESTION OF THE ELABORATION OF AN INTERNATIONAL CONVENTION AGAINST ORGANIZED TRANSNATIONAL CRIME, AND OTHER POSSIBLE INTERNATIONAL INSTRUMENTS

Report of the Secretary-General

Addendum

REPORT OF THE ASIAN REGIONAL MINISTERIAL WORKSHOP ON ORGANIZED TRANSNATIONAL CRIME AND CORRUPTION, HELD AT MANILA FROM 23 TO 25 MARCH 1998

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Convinced of the need for effective national and regional action against transnational crime, particularly in view of its serious debilitating effects on democratic institutions, the maintenance of the rule of law and the development process,

Mindful of the crucial importance of action against transnational crime, including organized crime, drug trafficking, terrorism, trafficking in human beings and various forms of financial crimes and corruption, and of the need for appropriate legislation and regulatory measures, as well as of an efficient and fair criminal justice system,

Conscious of the important role played by the United Nations in fostering international cooperation and developing practical strategies to prevent and combat transnational crime in all its forms and dimensions,

Bearing in mind the Shizuoka Declaration of the Sixth Asia Crime Prevention Foundation Conference on Crime Prevention and Criminal Justice, held in Tokyo and at Shizuoka, Japan, from 28 October to 1 November 1997,

Bearing in mind also the Declaration on Transnational Crime adopted by the Association of South-East Asian Nations on 20 December 1997, which called for expanding of the scope of the efforts of its member States to combat transnational crime such as terrorism, drug trafficking, arms smuggling, money-laundering, trafficking in persons and piracy, and for an exploration of ways in which its member States could work closer with relevant agencies and organizations, including the United Nations and its specialized agencies,

Hereby declare:

1. We recognize that organized transnational crime undermines civil society, distorts legitimate markets and destabilizes States. Criminal groups are creative in their endeavours to establish alliances in the region and in other parts of the world by taking advantage of gaps and weaknesses in international cooperation in criminal matters;

2. We are concerned about the increase in and expansion of organized criminal activities, such as trafficking in human beings, transnational exploitation of women and children, drug trafficking, trafficking in firearms and motor vehicles, illegal trade in cultural objects and natural resources including flora and fauna, piracy, money- laundering and other forms of financial crime and corruption. We express our determination and political will to take concrete action by, *inter alia*:

(a) Promoting national and regional action against transnational crime and corruption;

(b) Developing effective strategies aimed at defeating the economic power of criminal organizations, dismantling their alliances and support networks and establishing effective mechanisms for bringing members and leaders of criminal groups to justice;

(c) Improving the functioning of our institutions, in particular the criminal justice systems, reviewing, modernizing and harmonizing, as appropriate, existing laws and regulations to ensure their continued relevance, efficiency and adaptability to modern manifestations of organized crime;

(d) Enacting new laws and regulations responding to the complexity and sophistication of various forms of transnational crime, so as to bridge the gaps in legal systems that can be exploited by organized criminal groups;

(e) Strengthening the capacity of our law enforcement agencies and criminal justice personnel and upgrading their skills through specialized training in the area of transnational crime, money-laundering and other economic offences, including corruption, and through the elaboration of the required training materials;

(f) Implementing existing and developing new regional programmes aimed at the implementation of the various recommendations contained in the Naples Political Declaration and Global Action Plan against Organized Transnational Crime;

(g) Intensifying cooperation and coordination at the national level among relevant agencies in dealing with various forms of transnational crime;

(h) Fostering close collaborative ties with international organizations, in particular the International Criminal Police Organization, and relevant non-governmental organizations;

3. We also recognize that the region of Asia and the Pacific is witnessing rapid economic and political change, together with advancements in communications and technology. Those developments not only stimulate closer contacts with global markets, but also facilitate linkages between criminal organizations and allow joint criminal ventures. We note that the use and exploitation of computers and telecommunications technology for criminal activities has increased;

4. We call upon States that are not yet parties to the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988[2] to ratify or adhere to that Convention without delay and to implement it fully;

5. We realize that organized crime, drug trafficking, corruption and other economic crime generate large profits, which are used in illegal activities and to infiltrate legitimate businesses and financial enterprises, negatively affecting the development process in our countries. It is therefore imperative that we prevent and control money-laundering by, *inter alia*:

(a) Developing modern and adequate investigation and information-gathering techniques to prevent criminals from manipulating and using the financial systems to disguise the origin of assets and funds, and from elaborating complex structures that make detection unlikely and the collection of evidence difficult, and complementing such an approach by actively encouraging and securing the cooperation of financial institutions and the business community through appropriate regulations and mechanisms;

(b) Revising existing laws and regulations and enacting new laws, when appropriate, in order to incorporate provisions on money-laundering, in particular, those dealing with the extension of anti-money- laundering measures to cover all serious offences and the reporting of suspicious transactions to the appropriate authorities, combined with effective implementation mechanisms to ensure prevention and control of the laundering of the proceeds of crime;

(c) Supporting the global programme against money-laundering developed by the United Nations International Drug Control Programme and the Centre for International Crime Prevention of the Office for Drug Control and Crime Prevention of the Secretariat, with a view to cooperating with those entities in addressing the relevant needs of the region, paying particular attention to institution-building and the training of personnel;

6. We reiterate the view that corruption in various forms, including corruption and bribery in international commercial transactions, and their linkages with the various forms of organized crime undermine the values of democracy and morality and jeopardize the social, economic and political development of the countries of our region. Therefore, we confirm our commitment to combat all corrupt practices by, *inter alia*:

(a) Developing prevention and control measures to promote a culture of accountability and transparency, with the active involvement and support of the public;

(b) Developing comprehensive anti-corruption programmes, including administrative, civil, procedural and criminal legislation, as well as regulatory provisions and administrative action;

(c) Putting into effect, as appropriate, the various provisions of the International Code of Conduct for Public Officials,[3] the United Nations Declaration on Crime and Public Security,[4] and the United Nations Declaration against Corruption and Bribery in International Commercial Transactions,[5] as well as the recommendations of the Expert Group Meeting on Corruption, held at Buenos Aires from 17 to 21 March 1997,[6] in order to strengthen national institutions and call attention, at national and international levels, to the need for addressing the problems of corruption and bribery;

7. We note that the phenomena of corruption and bribery have become transnational in nature. Consequently, we encourage the Commission on Crime Prevention and Criminal Justice, in accordance with its existing mandate, to examine the feasibility of a global convention against corruption and bribery, taking into consideration successful initiatives in this field, such as the Inter-American Convention against Corruption, adopted in 1996 by the Organization of American States, and the Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, adopted in 1997 by the States members of the Organisation for Economic Co-operation and Development and a number of other States;

8. We are convinced that combating the above-mentioned forms of crime requires concerted action at all levels. Since those crimes transcend national boundaries, international cooperation, complemented by collaborative ties at the regional and subregional levels, is essential. To that end, we are determined that our efforts should be focused on the following actions:

(a) Creating the necessary infrastructure for regional and subregional cooperation of criminal justice institutions and law enforcement agencies in detecting, investigating and effectively prosecuting various forms of transnational crime, with special emphasis on organized crime and corruption, taking full advantage of the experience of existing bilateral and regional arrangements;

(b) Intensifying the exchange of information and experience regarding the occurrence and patterns of organized crime and corruption, thereby benefiting from best practices applied in different countries, and taking into account developments in the region;

9. We recognize the urgent need to make progress in vigorously promoting international cooperation in criminal matters. In this regard, we urge that special attention be given to extradition, mutual assistance, witness protection, transfer of prisoners and seizure and forfeiture of the proceeds of crime, as well as to other forms of regional and international cooperation in criminal matters. To that end, we encourage action focused on the following cooperation modalities, bearing in mind the differences in our legal systems:

(a) Reviewing and updating our extradition and mutual assistance arrangements or agreements, or concluding such arrangements, as appropriate, so as to facilitate the application of extradition, mutual assistance and witness protection laws and practices among the countries of the region;

(b) Endeavouring to incorporate, when concluding bilateral or regional agreements, provisions on simplified extradition procedures, taking into account the need for each country to have its own extradition law and to respect safeguards contained in that law;

(c) Establishing national central authorities to process requests for extradition and mutual assistance and putting in place mechanisms that would ensure coordination between competent national authorities;

(d) Making full use of the model treaties on international cooperation in criminal matters, adopted within the framework of the United Nations, when concluding bilateral, subregional or regional agreements or arrangements on such matters, and taking full advantage of the expertise of the Commission on Crime Prevention and Criminal Justice regarding modalities of cooperation in criminal matters;

10. We welcome the results achieved by the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime, which met at Warsaw from 2 to 6 February 1998. We believe that the outline of options for the contents of the convention serves as a solid basis for its further elaboration. We strongly support such an endeavour and confirm our commitment to play an active role in the efforts to resolve differences and overcome conceptual or substantive difficulties so that the process can speedily move towards its conclusion. We urge the Commission on Crime Prevention and Criminal Justice to take advantage of the existing momentum and the consensus achieved on the desirability of such a convention, with a view to speeding up the process of its drafting and finalizing such a project as soon as possible;

11. We are convinced that, in order to achieve progress in combating the various forms of crime mentioned above, the capacities of our crime prevention and criminal justice infrastructures should be strengthened. Technical assistance and advisory services provided by regional and international organizations are essential for many of the countries in our region, particularly those which are undergoing economic hardships and do not possess the means of effectively instituting appropriate reforms and changes;

12. We believe that technical assistance should respond to the specific needs of the countries of the region and take account of the following issues:

(a) Strengthening national capacities, including the creation of specialized structures capable of dealing with the complexity of organized crime;

(b) Establishing arrangements for the systematic collection, collation and analysis of data on structures, functions and manifestations of organized transnational crime, including trafficking in human beings, money- laundering and corruption, and using such data in the development and implementation of appropriate policies;

(c) Exchanging information regarding legislative measures in order to assist in enactment of new legislation in response to newly emerging patterns of crime;

(d) Organizing training courses and seminars for law enforcement and criminal justice personnel and developing training materials such as manuals and training curricula, with a view to upgrading their skills and promoting the exchange of experiences and know-how;

(e) Developing and implementing bilateral, subregional, regional and international treaties on cooperation in criminal justice matters, drawing on the expertise of States in the region and the United Nations;

(f) Ensuring that the sectors of society that may be involved in transnational crime by reason of poverty and similar circumstances are provided with effective and sustainable alternative sources of livelihood or with opportunities to put their talents to legitimate use;

13. We recognize the important role played by the Centre for International Crime Prevention in providing technical assistance and advisory services. Its role in facilitating joint initiatives and the formulation and implementation of technical cooperation projects, involving not only the developing countries concerned but also other interested countries and relevant agencies, should be enhanced, with a view to maintaining efficient criminal justice systems as an essential element of development efforts. The resources for the Centre should be strengthened in order for it to cope with the increased demand for technical assistance and advisory services;

14. We also recognize the important role played by institutions and organizations in the region of Asia and the Pacific, such as the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders and the Asia Crime Prevention Foundation, in assisting the countries of the region in this field;

15. We further recognize the important role of subregional organizations in pursuing initiatives focused on their geographic areas and in establishing interorganizational coordination mechanisms to address the problem of transnational crime;

16. We are convinced of the fact that building up the capacity of Governments to effectively cooperate with each other in criminal justice matters, particularly in relation to combating organized crime and corruption, is a joint responsibility of developed and developing countries and relevant agencies. We therefore call upon States, the United Nations Development Programme, the World Bank, the Asian Development Bank and other relevant international, regional and national bodies to give favourable consideration to technical assistance project proposals submitted to them by the Centre for International Crime Prevention with a view to strengthening our national and regional capacities and creating the expertise required for the prevention and control of organized transnational crime and corruption. In that connection, and given the high priority attached by our Governments to such matters, we appeal to prospective donors to give favourable consideration to the further development and implementation of action plans contained in the project proposals, including the integration of the activities foreseen in such proposals into the national development plans of our countries and into the respective country programmes of the United Nations Development Programme;

17. We express our determination to ensure proper follow-up to the present Declaration by:

(a) Encouraging our Governments to take the necessary measures, in accordance with their respective legal systems, to implement the various provisions of the Declaration;

(b) Appealing to Governments, intergovernmental and non-governmental organizations and the relevant institutes to assist the States of the region in their fight against transnational crime.

II. ORGANIZATION OF THE REGIONAL MINISTERIAL WORKSHOP

A. Opening of the Regional Ministerial Workshop

5. In his opening statement, His Excellency, President Fidel V. Ramos of the Philippines welcomed the participants to the first high-level meeting on transnational crime held in the Asia and Pacific region. The President stressed that, because events in one place had an impact on peoples' lives in another, Governments should adopt global perspectives and synchronize their national thrusts and policies with developments in the rest of the world. He noted that in recent years the region had experienced the increasing effects of illicit drug trafficking, money-laundering, arms smuggling, terrorism, illegal traffic in human beings and stolen properties, transborder economic fraud, piracy and maritime fraud. He drew attention to various statistics on the proceeds of organized crime but emphasized that the real costs of transnational crime to society were far greater than the combined revenues accruing to those nefarious activities.

6. Referring to his country's initiatives to forge closer cooperation among the countries in the region in the fight against transnational crime, the President referred to the Baguio Communique, which had been adopted by the first international conference on terrorism, held at Baguio, the Philippines, in 1996, and to the Declaration on Transnational Crime of the Association of South-East Asian Nations (ASEAN), which had been adopted by an ASEAN conference in 1997. The President encouraged the participants to examine closely all forms of transnational crime, and to look into all possible modalities for cooperation at the administrative, legislative and judicial levels and for extending mutual assistance in intelligence and field operations. There was also need for harmonizing laws and fortifying the legal system against transnational crime. Thus consideration should be given to contributing to the elaboration of the proposed United Nations convention against organized transnational crime.

7. The Secretary to the Department of the Interior and Local Government of the Philippines stated that the hosting of the Regional Ministerial Workshop demonstrated the continuing and growing commitment of the Government of the Philippines to the global efforts to combat one of the most serious problems in the world at present. An action programme was required, not only to cope with this growing menace but also to enable countries to keep ahead of the problems that it posed. In Asia, in addition to arms smuggling, illegal drugs and terrorism, new forms of crime were emerging, such as credit-card frauds and fraudulent international telephone calls, that eroded the social fabric. Concerted action was needed to defeat the threat of transnational crime and thereby enhance the well-being of the people.

8. The representative of the Office for Drug Control and Crime Prevention (ODCCP), speaking on behalf of the Executive Director, thanked the President and the Government of the Philippines for hosting the Workshop. He informed the participants of the intention of ODCCP to work with the Governments across Asia to pass model legislation in fighting corruption, assisting and strengthening an independent judiciary and promoting other anti-corruption mechanisms, highlighting transparency and accountability. He also informed the Workshop of a project being undertaken by ODCCP to study trafficking in human beings, with a view to developing policies and strategies. In addition, he provided information on the Global Programme against Money- Laundering that was being jointly implemented by the United Nations International Drug Control Programme and the Centre for International Crime Prevention.

B. Attendance

9. The Regional Ministerial Workshop was attended by the representatives of the following States: Australia, Bangladesh, Brunei Darussalam, China, Egypt, Fiji, India, Indonesia, Iran (Islamic Republic of), Iraq, Japan, Kuwait, Lao People's Democratic Republic, Malaysia, Marshall Islands, Micronesia (Federated States of), Mongolia, Myanmar, Nepal, Pakistan, Papua New Guinea, Philippines, Qatar, Republic of Korea, Singapore, Sri Lanka, Thailand and Viet Nam.

10. The Workshop was also attended by observers of the following States: Canada, France, Netherlands, Russian Federation and United States of America.

11. The following United Nations offices and organs were represented by observers: United Nations Development Programme and United Nations Information Centre, Manila.

12. The following affiliated regional institute was represented by an observer: Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders (UNAFEI).

13. The following intergovernmental organizations were represented by observers: Association of South-East Asian Nations (ASEAN), International Criminal Police Organization (Interpol) and International Organization of Migration (IOM).

14. The following non-governmental organization was represented by an observer: Asia Crime Prevention Foundation.

C. Election of officers

15. The Regional Ministerial Workshop elected the following officers by acclamation:

Chairman: Epimaco A. Velasco (Philippines)

Vice-Chairman: Jacob Wama (Pakistan)

Rapporteur: Rienzie Arseculeratne (Sri Lanka)

D. Adoption of the agenda

16. At its first plenary meeting, on 23 March 1998, the Regional Ministerial Workshop adopted the following agenda:

1. Election of officers.

2. Adoption of the provisional agenda and organization of work.

3. National experiences with regard to the establishment of substantive, procedural and regulatory legislation and organizational structures adopted to prevent and combat organized transnational crime, money-laundering and corruption.

4. Measures to strengthen efforts to prevent and control organized crime, money-laundering and corruption at the national, subregional and regional levels.

5. Inputs for the elaboration of an international convention against organized transnational crime.

6. Needs for technical assistance, including treaty development and the strengthening of criminal justice infrastructures.

7. Consideration of conclusions and recommendations and adoption of the report of the Workshop.

8. Closing of the Workshop.

III. SUMMARY OF THE DISCUSSION

17. The participants welcomed the Regional Ministerial Workshop as most timely to address common concerns and to develop joint strategies to curb the dangerous trends in the growth of transnational crime in the region. It was recognized that the globalization of contemporary society, fostered by the liberalization of trade and the dramatic increase in international travel and communications, had a direct impact on the transnationalization of organized crime, affecting regional stability and development, the maintenance of the rule of law and the welfare and the quality of life of the people.

18. In view of the rapid increase and diversification of transnational criminal activities, the international community had to combine its efforts to formulate an effective response to the growing menace at all levels. In that regard, strengthening and improving mechanisms of cooperation among the countries of the region, particularly in exchange of information and expertise, cooperation and coordination among law enforcement agencies, together with the promotion of mutual legal assistance, were considered essential.

19. The work undertaken within the framework of the United Nations, particularly the United Nations drug conventions and the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, adopted at the World Ministerial Meeting on Organized Transnational Crime, held at Naples, Italy, in 1994, was praised as an expression of the political commitment of the international community to deal collectively and globally with the problem of transnational crime.

20. Many speakers referred to the most dangerous forms of organized transnational crime in the region, which included arms trafficking, illicit drug trafficking, trafficking in human beings, smuggling of illegal migrants, corruption, economic crime, such as credit-card fraud, currency counterfeiting and international telephone frauds, piracy and terrorism. Other forms of crime committed by organized criminals, as reported by some countries, included unlawful banking, offences related to irrecoverable credit, blackmail against business enterprises and computer hacking.

Trafficking in human beings

21. With respect to the problem of trafficking in human beings, participants expressed their deep concern about the noticeable increase in the trafficking of women and young girls by organized criminal groups for exploitative purposes, such as prostitution, pornography and mail-order bride schemes. Emigration of domestic helpers often turned into exploitation for sexual purposes. The scourge of children and adolescents who were victims of paedophiles was also underlined. Some delegates reported an increase in the number of migrants smuggled illegally into their territories by criminal groups, often through brokers' organizations. Attention was drawn to the fact that modern means of communications, such as the Internet, were becoming powerful tools in the hands of traffickers in human beings.

Trafficking and smuggling of firearms

22. The trafficking and smuggling of firearms figured among the most serious problems facing the countries of the Asia and Pacific region. Arms were smuggled into countries via seaports, airports and land owing to the high demand for cheap firearms. Some participants stressed the dangerous linkage between terrorist groups and international arms smugglers. In order to stop that illegal practice, speakers called for the establishment of mechanisms for information and intelligence exchange among the countries of the region. A representative from one country reported that, in order to prevent the influx of firearms from overseas, efforts were being made by the police to strengthen water's-edge operations in cooperation with other government agencies and private organizations as well as to promote collaborative ties with foreign investigative agencies. Officers in charge of firearms from Asian countries were invited to that country to participate in international conferences and seminars on firearms control. Those activities aimed at improving firearms control in the Asian region, thus contributing to the consolidation of international cooperation in criminal investigations.

Corruption

23. Many speakers underlined the negative impact of corruption on development and the economy, particularly in view of its linkages with organized crime. Corruption should be criminalized by all countries in the region. Other countermeasures should be instituted, including: the promotion of good governance; the establishment of independent bodies; the promulgation of codes of conduct for public officials, the press and the judiciary; and campaigns to raise the awareness of the public about the negative effects of corruption. Appreciation was expressed for the initiatives undertaken by the United Nations to strengthen international cooperation in the field by organizing the Expert Group Meeting on Corruption, held at Buenos Aires, Argentina, in March 1997 and the Conference on Money-Laundering Awareness-Raising for South and South-west Asia, held at New Delhi, India, in March 1998, which resulted in the formulation of recommendations for action at various levels.

Illegal trafficking in drugs

24. Many speakers referred to the link between the illegal production of and trafficking in drugs and organized crime. It was noted that a number of island States were particularly vulnerable to drug trafficking owing to penetrable seaports and long coastlines. Many speakers referred to legal measures and practical action undertaken in their countries in line with the relevant international conventions and pointed out that such measures should be well coordinated. Others reported on the appearance of new types of drugs and the type of control measures taken. Two speakers described in great detail their countries' anti-drug strategies, including crop substitution and efforts to suppress the diversion of precursor chemicals from licit to illicit channels.

Money-laundering

25. It was noted that, although some countries in the region were more affected by money-laundering than others, the laundering of money derived from criminal activities was spreading rapidly. It was also noted that the national legislation of some countries lacked specific provisions for dealing with this offence. Several delegates reported that their countries had recently ratified the United Nations Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances of 1988 or were in the process of ratifying it. In line with the Convention, provisions on money-laundering were to be implemented. Support was also expressed for the implementation of the recommendations of the Financial Action Task Force (FATF) on money-laundering.

26. A number of speakers also referred to the role of the banking industry in taking effective steps against money-laundering. A number of countries were actively changing banking regulations so as to prevent money-laundering, while others, mainly for internal and economic reasons, refrained from doing so. One speaker referred in particular to the agreements adopted by the Basel Committee for Banking Supervision. In line with

those agreements, special attention should be paid to the need to ensure customer identification, to respect relevant national banking laws and regulations, to abstain from processing any suspicious transactions, to assist in criminal investigations without prejudice to the legitimate rights of third persons and to provide training for staff with emphasis on vigilance to detect money-laundering. The further extension of such regulations to other countries or the formulation of an international treaty on the matter would be highly welcome.

Terrorism

27. Terrorism was considered to be a serious threat to the internal and external security of nations. One speaker observed that there were dangerous links between transnational organized crime and terrorism. In his view, criminal investigations revealed that terrorists received assistance from organized criminal gangs in obtaining forged travel documents, weapons and explosives and in moving goods and human beings across borders. Such investigations also revealed that terrorist groups often robbed banks and shops in order to finance their criminal activities. Terrorist activities often transcended national boundaries, but efforts undertaken to counter terrorism at the national and regional levels remained insufficient. Several speakers called upon the countries of the Asia and Pacific region to strengthen the cooperation between their law enforcement agencies and the exchange of information and intelligence, particularly regarding counterfeiting of travel documents, illegal trafficking across borders and the purchase and smuggling of weapons and explosives.

National legislation

28. Many speakers reported on substantive, procedural and regulatory legislation adopted and implemented to prevent and combat transnational organized crime. Those measures focused on cooperation between law enforcement agencies, the conclusion of agreements on extradition and mutual assistance and the enhancement of information gathering and exchange, in order to prevent organized crime from taking advantage of any loopholes in legal systems.

29. A number of countries lacked adequate legislation to respond to the various forms of transnational crime, while others faced dramatic changes as a result of opening their societies to rapid economic changes, accompanied by the introduction of new technologies. As a result, new forms of crime were on the rise, requiring appropriate legislative and regulatory measures. It was pointed out that, although new legislation and institutional reform were necessary, there were financial constraints in implementing those measures.

30. United Nations standards and norms in crime prevention and criminal justice, such as the International Code of Conduct for Public Officials, were of great assistance in introducing legislative and administrative reform. Recommendations by organizations such as FATF and Transparency International were also of help, especially in enacting national legislation to combat corruption. It was noted that the ratification of or accession to international treaties should be followed by the passing of legislation giving effect to the agreements reached.

31. A number of speakers reported on the enactment of special legislation covering corruption and bribery, money-laundering, extradition, mutual assistance in criminal matters, confiscation, forfeiture and freezing of proceeds of crime, transfer of prisoners, control of firearms and other weapons, trafficking in human beings, prostitution and sexual exploitation, terrorism and victim and witness protection. Other speakers reported on action taken regarding the issuance of administrative regulations in areas such as immigration control and telecommunications secrecy. In many cases, those efforts entailed the setting up of specialized bodies such as national crime authorities and commissions comprising several government departments or institutions, such as ombudsmen.

32. One speaker indicated that his country had defined, for the first time, the terms "criminal group" and "organized crime". In addition, the role of investigation and prosecution had been strengthened and changes in

court procedures for dealing with cases of organized crime had been introduced. Several speakers underlined that their new legislation on organized transnational crime entailed heavy and strict penalties, including the severest forms of punishment. Other speakers reported on their efforts to curb the financial basis of criminal groups by enacting new legislation to seize and confiscate the proceeds of crime. Another speaker reported on newly enacted legislation, containing provisions to seek or provide mutual assistance even in the absence of a treaty.

Technical assistance

33. Emphasis was placed on the need to establish effective mechanisms for technical assistance in the region. Such assistance should be increased and programmes should be designed in accordance with regional needs and in response to the needs of countries. It was noted that the recommendations on technical assistance set out in the Naples Political Declaration and Global Action Plan remained to be implemented.

34. Most developing countries of the region felt the need to have their technical resources and expertise enhanced. In that context, developed countries should provide technical and legal assistance to developing countries with a view to establishing a professional and technical framework for exchanging experience and expertise among States at all levels. Bilateral or multilateral agreements should pay heed to those requirements and should especially focus on legal advisory services, specialized training in financial investigations for law enforcement officers, prosecutors and judges. There was a general agreement that technical assistance should also focus on harmonizing legislation, improving information gathering and sharing and promoting close collaborative ties among law enforcement and criminal justice agencies, particularly in relation to trafficking in human beings, sexual exploitation of children and women, extradition, mutual assistance and transfer of prisoners.

35. Some countries described the type of assistance provided to or by them bilaterally through national institutions, particularly in the area of training. One country offered such assistance to neighbouring countries and other countries of the region, focusing on police administration, investigative methods, inter-police communications and the use of new technologies. Reference was also made to the assistance provided by UNAFEI. Speakers also referred to the important role played by the United Nations Centre for International Crime Prevention in providing technical assistance and advisory services, and it was considered desirable to enhance its role in facilitating the creation of joint initiatives and the formulation and implementation of technical cooperation projects.

Regional and international cooperation

36. A number of speakers explained the role of their organizations in regional and international cooperation. Cooperation at the regional level was pursued through the activities undertaken by regional and subregional organizations and institutes, such as ASEAN, UNAFEI and the Asia Crime Prevention Foundation (ACPF). The participants were informed of the efforts made by ASEAN in formulating policies and developing action-oriented programmes against transnational crime. Particular reference was made to the ASEAN Declaration on Transnational Crime, adopted by the first ASEAN Conference on Transnational Crime, held at Manila from 18 to 20 December 1997. The establishment of an ASEAN centre on transnational crime to promote regional cooperation and assistance was recommended.

37. UNAFEI conducted training courses and seminars on various forms of transnational crime, involving participants not only from the Asia and Pacific region but also from developing countries from other regions. UNAFEI had also established a network of alumni who could contribute to cooperation activities at the regional level. ACPF contributed to strengthening the regional approach to combat transnational crime by elaborating recommendations for action on simplified extradition procedures, mutual legal assistance and the protection of

the environment. ACPF had also elaborated a regional model treaty on mutual assistance in criminal matters, based on the United Nations model treaty.

38. As one of the key tools of cooperation set up by Interpol, 150 member countries had been equipped with computer-to-computer mail service, permitting police services around the world to communicate with each other or Interpol headquarters. It also enabled law enforcement services to transmit photographs and fingerprints and to conduct record checks. Interpol members also had access to a database in which intelligence was gathered and analysed.

39. In the general discussion, it was pointed out that in a number of cases the emergence of new forms of organized transnational crime had led to the destabilization of international relations and threatened the viability of societies, the independence of Governments, the integrity of financial institutions and the proper functioning of democracy. Transnational crime represented serious threats to people's lives and security and to the economic development of societies.

40. Regular cooperation at the operational level, which would be a valuable tool to combat transnational crime, should be pursued. The political will in that regard was demonstrated by the international gatherings held for designing the best possible strategy to prevent the further expansion of transnational criminal activities and by the instruments such as the Naples Political Declaration and Global Action Plan. Support was expressed for the efforts of the United Nations Commission on Crime Prevention and Criminal Justice in monitoring the implementation of the Plan.

41. It was emphasized by one speaker that poverty, unemployment, social injustice and unfair and imbalanced trade and economic relations should be considered factors that rendered States vulnerable to organized transnational crimes. In that context it was important for all States to take the necessary steps to address such problems with the cooperation and support of the international community.

42. Broad support was expressed for the elaboration of an international convention against organized transnational crime, which would serve as a framework for further standardizing and strengthening collaborative ties between States. In the elaboration of the draft international convention, account should be taken of the fact that the nefarious effects of the unprecedented growth of organized transnational crime had been acknowledged by the international community as an impediment to world peace, social stability and economic development. To address that menace, it was deemed imperative for countries to strengthen domestic legislation and ensure its enforcement and to foster international cooperation to the widest extent possible. While sovereignty had traditionally been deemed absolute at the domestic level, it could, however, be subjected to limitations voluntarily agreed upon by States. The international community should be guided by the prevailing trend of closer cooperation between States, which had led to the evolution of international law. Matters which had essentially been within the realm of private international law had been elevated into public international law as a response to the growing complexities of the modern world.

43. The view was expressed that, in order to make it possible for more countries to accede to the convention, the principle of respecting national sovereignty should be maintained. Existing acceptable common provisions in multilateral conventions and the basic principles on extradition and on assistance in criminal matters, as well as the different economic, political and cultural backgrounds of various countries, should be taken into account. It was further stressed that the elaboration and adoption of international instruments for implementing a global strategy to confront transnational crime activities should be based on successful examples such as the United Nations Convention against Illicit Trafficking in Narcotic Drugs and Psychotropic Substances of 1988.

44. It was noted that the meeting of the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized

transnational crime, held at Warsaw, Poland, from 2 to 6 February 1998, had clarified the issues to be addressed in the convention, thus establishing a basis for further work.* One speaker indicated that, as the member countries of the G-8 Summit had viewed the elaboration of such a convention favourably, the results of the current Workshop should be brought to the attention of that Summit.

IV. ADOPTION OF THE REPORT OF THE REGIONAL MINISTERIAL WORKSHOP

45. At its last meeting, on 25 March 1998, the Regional Ministerial Workshop adopted the report of the Workshop, as orally revised and amended during the discussion.

V. CLOSURE OF THE REGIONAL MINISTERIAL WORKSHOP

46. At the closing session, the representative of the United Nations Secretariat underlined the importance of the Manila Declaration on the Prevention and Control of Transnational Crime, which reflected the commitment of the Member States of the region to make further progress in the fight against transnational criminality. He assured the participants that the Secretariat would ensure follow-up during the forthcoming session of the Commission on Crime Prevention and Criminal Justice.

47. The Secretary of the Department of Justice of the Philippines expressed his appreciation to participants for their interaction and inputs, which contributed to the success of the Workshop, and he invited Member States to continue exploring new areas for greater regional and subregional cooperation to combat transnational crime. He emphasized that, pending the adoption of an international convention against organized transnational crime, efforts should be made to realize the goals of the Naples Political Declaration and Global Plan of Action, of the 1997 ASEAN Declaration on Transnational Crime.

48. In his closing statement, the Chairman noted that the interventions made during the Workshop showed that transnational crime undermined the rule of law, eroded the social fabric, threatened the integrity of commercial institutions, created political instability and disrupted national growth and development. The international community should join forces, resolve differences and conceptual difficulties, share resources and information, improve the capabilities of law enforcement agencies and criminal justice structures, and better understand the new manifestations of transnational crime. The Manila Declaration represented a programme of action to advance the campaign against organized transnational crime.

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*See E/CN.15/1998/5.

Notes

[1]See A/49/748, annex.

[2]*Official Records of the United Nations Conference for the Adoption of a Convention against Illicit Traffic in Narcotic Drugs and Psychotropic Substances, Vienna, 25 November-20 December 1988*, vol. I (United Nations publication, Sales No. E.94.XI.5).

[3]General Assembly resolution 51/59, annex.

[4]General Assembly resolution 51/60, annex.

[5]General Assembly resolution 51/191, annex.

[6]E/CN.15/1997/3/Add.1.

Annex I

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Jose Jr. Zaide, Ambassador and Permanent Representative to the United Nations Office at Vienna
Plaridel Garcia, Assistant Secretary, Department of National Defense
Alfredo Filler, Director-General, NICA
Santiago Toledo, Director, National Bureau of Investigation
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United Nations

United Nations Development Programme, United Nations Information Centre

Affiliated regional institutes

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Intergovernmental, organizations

Association of South-East Asian Nations; International Criminal Police Organization, International Organizatior for Migration

Non-governmental organizations

Asia Crime Prevention Foundation

Annex II

REPORT OF WORKING GROUP I: ELABORATION OF AN INTERNATIONAL CONVENTION AGAINST ORGANIZED TRANSNATIONAL CRIME

1. Working group I, chaired by the Secretary of Law, Justice and Human Rights of Pakistan, met to provide input to the elaboration of an international convention against organized transnational crime. The representative of the Centre for International Crime Prevention made an introductory statement, in which he highlighted the background of the elaboration of the convention and the task of the Regional Ministerial Workshop in providing input on the matter for consideration by the Commission on Crime Prevention and Criminal Justice at its seventh session.

2. In addition to the background documentation, the working group had before it the report of the meeting of the inter-sessional open-ended intergovernmental group of experts on the elaboration of a preliminary draft of a possible comprehensive international convention against organized transnational crime, held at Warsaw from 2 to 6 February 1998 (E/CN.15/1998/5), which served as the main paper for discussion. The deliberations of the working group centred on chapter III of the report of the meeting of the group of experts, entitled "Outline of options for contents of the international convention against organized transnational crime". A brief account of the main general and specific comments made by members of the working group, either orally or in writing, on the subsections of the outline is presented below.

1. Statement of objectives

1. Support for option 1 was stressed, as it reflected the terms of article 2 of the 1988 Convention, to which many States had acceded.

2. Support was expressed for option 3, as it contained a definition of organized crime. However, it was noted that the definition should be broadened so as to include criminal acts whose purpose was not profit- oriented, such as terrorism and computer hacking.

3. The convention should contain a precise and comprehensive definition of organized crime, avoiding the inclusion of a list of offences. The need to achieve a consensus on the content of the convention should not lead to the adoption of a text merely duplicating existing instruments and agreements. It should also include the following elements: (a) provisions covering the need to extend cooperation to developing countries in terms of financial and technical support so as to enhance their ability to confront organized crime; (b) provisions encouraging the ratification of the 1988 Convention; and (c) provisions to ensure the commitment of States to prevent and control the laundering of proceeds of crime, through legislative and law enforcement reforms, as well as to increase international cooperation in this field.

4. The convention should contain appropriate mechanisms for the implementation of its various provisions.

5. The convention should respect the sovereignty and diversity of the legal systems and national legislation of States, as well as existing specificities among different regions in terms of social and cultural values and traditions.

6. Under promotion of implementation, the following should be included: "Each State Party shall endeavour to institute effective measures to promote within its territory accountability in the implementation of this convention."

7. No objection was voiced regarding option 3.

2. Scope of application

1. Option 1 presented problems because it was difficult to determine the period of imprisonment for an offence considered "serious", as the listing of offences could never be comprehensive.

2. The general approach should be to elaborate a convention applicable to "serious crimes", defined as crime attracting a particular penalty, rather than seeking a definition of the concept of organized crime as such. The convention should be a general framework, with additional protocols dealing with specific crimes committed by organized criminal groups. The protocols could also outline further specific cooperation measures acquired to tackle that particular form of criminality.

3. The 1988 Convention offered a valuable precedent in relation to certain key aspects of the proposed global convention, particularly as regards the provisions on extradition and mutual assistance in criminal matters.

4. Support was expressed for the inclusion in the convention of crimes committed against the environment.

5. Support was expressed for including: (a) principles of non-intervention; (b) principles of exclusive exercise of jurisdiction and performance of functions; and (c) protocols.

3. Participation in an organized crime group

1. Support was given to option 1, on the understanding that further examination of the nature of participation and/or association with an organized crime group was required.

2. Option 2 was supported, as it was viewed as being more comprehensive.

4. Money-laundering

In including in the convention a provision on money-laundering and the confiscation of the proceeds of crime, account should be taken of the exploitation by criminal organizations of the globalization of communication and of improvements in the technological field.

5. Corporate criminal liability

The establishment in domestic penal legislation of criminal liability of corporate persons might be difficult for some countries. It was therefore desirable to focus on the strengthening of international cooperation to solve that problem.

6. Sanctions

Support was stressed for article 3, paragraph 4, of the 1988 Convention.

7. Confiscation

No comments were submitted.

8. Transparency of transactions

The existence of legislation safeguarding the strict confidentiality of bank deposits served as hindrances in curtailing money-laundering schemes. No objection was voiced regarding paragraphs 1 and 2.

9. Jurisdiction

No specific comments were submitted.

10. Extradition

1. Support for option 1 was stressed, and it was proposed that paragraphs 1 and 3 under that option should be reformulated so as to reflect the "non-exclusive approach" regarding the crimes falling within the purview of organized transnational crime.

2. Extradition of suspects and criminals proven guilty of involvement in any organized crime could be based on the exact text and provisions of the convention, insofar as it did not contradict the jurisdiction of the countries concerned.

11. Obligation to extradite or prosecute (*aut dedere aut iudicare*)

Support for option 1 was stressed.

12. Extradition of nationals

Support for option 1 was stressed.

13. Consideration of requests for extradition

Support for option 1 was stressed. With regard to option 2, while no objection was voiced to paragraphs 2, 4, 5, 6 and 7, further examination of the political offence exception would be required.

14. Mutual legal assistance

No specific comments were submitted.

15. Investigation of offences

While no objection was voiced to the proposed provisions, it was recommended that paragraphs 2, 3 and 4 should be reformulated so as to reflect other cases falling under the purview of transnational crime.

16. Transfer of proceedings

It was noted that the proposed provision on transfer of proceedings might impact not only on the question of venue, but also with respect to jurisdiction. Doubt was expressed whether a transfer considered to be in the interests of the proper administration of justice would be considered as such by the requested State or by the State which had jurisdiction of the matter.

17. Recognition of foreign judgements

No specific comments were submitted.

18. Protection of victims and witnesses

Given the significance of the protection of victims and witnesses, it was noted that option 1 did not permit the relocation of witnesses to another territory. While it was essential to ensure such protection, it would seem difficult to do so in cases where witnesses testified publicly.

19. Law enforcement cooperation

1. It was recommended that the role of Interpol should be covered.

2. The convention should include the bases on which cooperation between countries on both security and jurisdiction which would provide information to help investigate and apprehend suspects and criminals, and promote the exchange of information, expertise, research, results, plans and training.

20. Collection and sharing of information on organized crime

Support was expressed for creating an information network applying the latest techniques used to combat the threats posed by the continuous development of organized crime.

21. Training and technical assistance

1. It was recommended that option 2 should include training programmes for the judiciary, as well as for investigation agencies.

2. It was recommended that the convention should urge developed countries to provide assistance to developing countries, as the crime-fighting capabilities of the latter were not on a par with those of the former. Providing training and technical assistance to help enhance the institutional capabilities of developing countries should be encouraged.

22. Prevention

It was recommended that prevention should not be focused only on profitable crimes, but should also be extended to other forms of transnational crime. The sharing of information was considered an effective crime prevention technique.

23. Role of the United Nations and other relevant organizations

The modalities regarding the role of the United Nations, as spelled out under this section, were supported.

24. Relation with other organizations

The options under this section were supported, as they underlined the need to ensure greater harmonization between conventions.

25. Dispute settlement

The provisions related to dispute settlement were considered to be comprehensive and workable.

26. Signature, ratification, accession and reservations

No specific comments were submitted.

27. Entry into force

No specific comments were submitted.

28. Amendment

No specific comments were submitted.

29. Denunciation

No specific comments were submitted.

30. Language and depository

No specific comments were submitted.

Annex III

REPORT OF WORKING GROUP II: NEED FOR TECHNICAL ASSISTANCE, INCLUDING TREATY DEVELOPMENT AND THE STRENGTHENING OF CRIMINAL JUSTICE INFRASTRUCTURES

1. Working group II, chaired by the Minister of Justice of Papua New Guinea, considered the specific needs of countries of the region for technical assistance to effectively counter transnational crime, and discussed two regional technical assistance projects related to organized transnational crime and corruption. The provisions for the implementation of the two projects were reviewed in detail.

2. The working group examined the modalities for providing technical assistance and advisory services by the Centre for International Crime Prevention, as well as examples of assistance provided in related fields. On the basis of the deliberations of the working group on regional policies to combat organized crime, including drug-related crime, the view was expressed that technical assistance projects should reflect the varying degrees of development and sophistication of the respective criminal justice systems. While a number of States had taken measures to implement the Naples Political Declaration and Global Action Plan against Organized Transnational Crime, for example by enacting or updating legislation and establishing specialized investigative units, other countries, because of their political and economic situation, were primarily concerned about creating or reinforcing the basic structures of their criminal justice system.

3. The two draft regional project proposals on organized transnational crime and on corruption were unanimously welcomed. They addressed the main concerns of the countries of the region, particularly relating to the development of legislation and the enactment of treaties on assistance in criminal matters, data collection and specialized training.

4. The working group considered that the scope and time-frame envisaged by the projects would provide a most useful basis to initiate practical action against organized crime at the regional level. It was stated that the duration required for the implementation of some of the activities envisaged, such as the collection of data and the elaboration and enactment of model legislation, to be based on the model treaties on assistance in criminal matters elaborated within the framework of the United Nations, would have to take into account the actual capacities of Member States, as well as the time-frame required to obtain the necessary consent and to implement the provisions of such instruments at the national level. Donor agencies and interested countries should provide funding for the projects submitted by the Centre to the Regional Ministerial Workshop.

5. Because of the nature of transnational crime, effective technical assistance needed a common approach and close cooperation of all countries of the region. Such assistance should therefore be well coordinated and, as appropriate, carried out in cooperation with relevant regional and subregional organizations, such as the Asia and Far East Institute for the Prevention of Crime and the Treatment of Offenders, the Asia Crime Prevention Foundation and the Association of South-East Asian Nations.

6. It was stressed that action against organized transnational crime was a task to be shared alike by developed and developing countries and the relevant agencies. In view of the great threat posed by organized transnational crime, it was recommended that countries, donor agencies, including the United Nations Development Programme, the World Bank, the Asian Development Bank and other international, regional or national agencies should be called upon to give priority attention to technical assistance projects on organized transnational crime developed by countries of the region in cooperation with the Centre. Governments of the region should demonstrate their political will to defeat transnational organized crime in all its forms by also providing their full support to such projects, and by creating an environment conducive to the implementation of the recommendations of the Workshop.

Annex IV

EXPRESSION OF APPRECIATION TO THE GOVERNMENT AND PEOPLE OF THE PHILIPPINES

The following resolution was adopted by the participants in the Regional Ministerial Workshop:

"We, the Ministers and representatives of the States participating in the Asian Regional Ministerial Workshop on Transnational Crime and Corruption, held at Manila, from 23 to 25 March 1998, organized by the Centre for International Crime Prevention at the invitation of the Government of the Philippines, wish to express our deep gratitude to His Excellency President Fidel Ramos, to the people and the Government of the Philippines and to all authorities for their warm welcome and generous hospitality extended to us and for the excellent facilities provided."